

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FREDDY HURLEY,

Petitioner,

v.

**NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,**

Respondent.

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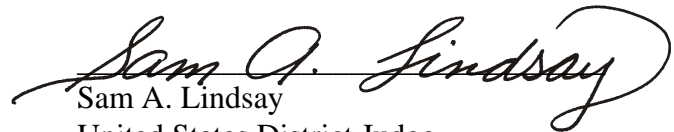
Civil Action No. **3:08-CV-968-L**

ORDER

Before the court is Hurley's Petition for Writ of Habeas Corpus, filed June 9, 2008. Pursuant to Special Order 3-251, the complaint was referred to United States Magistrate Judge Jeff Kaplan, on June 9, 2008. On October 29, 2008, the Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report") was filed. No objections to the Report have been filed.

This is a habeas petition filed pursuant to 28 U.S.C. § 2254. The magistrate judge found that the court lacks subject matter jurisdiction over this case because, at the time the petition was filed, Petitioner was not "in custody" under the conviction and sentence he seeks to attack. Having reviewed the petition, file, record, and the Report in this case, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court, and the court **dismisses without prejudice** the writ of habeas corpus for lack of subject matter jurisdiction.

It is so ordered this 18th day of November, 2008.


Sam A. Lindsay
United States District Judge